

## REMARKS

Reconsideration and allowance in view of the following remarks are respectfully requested.

Upon entry of this Response, claims 27-32 and 46-61 will be pending in the present application.

Claims 1-26 and 33-45 have been cancelled.

Claim 27 has been amended in this response.

Claims 50-61 have been added in this response. Support for such new claims can be found, for example, in paragraphs [0068]-[0071] as well as various Figs of the application as originally filed.

### **Claims 27-32 and 46-49: Rejected Under 35 U.S.C. § 102(b)**

The Examiner rejects Claims 27-32 and 46-49 under 35 U.S.C. § 102(b) as being anticipated by Nakajima (U.S. 6,355,036 B1, hereinafter “Nakajima”). It is respectfully submitted that Nakajima fails to disclose or suggest all of the elements recited in the claims and therefore fails to anticipate the claims.

Claim 27 presently recites an implant for attachment to a hyoid bone, comprising: an implant body; a first attachment zone configured for attachment to a first portion of a hyoid bone; a second attachment zone configured for attachment to a second portion of a hyoid bone; a connection between the first and second attachment zones which allows movement of the first and second attachment zones with respect to each other; and a lock carried by the body, for inhibiting the movement between the first and second attachment zones.

An example of such implant is shown in Figs. 13A and 13B of the present application which is described in paragraph [0081]:

In one embodiment, shown in FIGS. 13A and 13B, a configuration lock 67 is located between the two brace arms 39 and is attachable to both brace arms 39. The configuration lock 67 comprises a locking member 68 with at least one interfaceable end 69 and at least one locking interface 70 located on a brace arm 39. When the interfaceable end 67 of the locking member 68 is in contact with the locking interface 70 of the brace arms 39, the locking member 68 limits the movement, if any, of a brace arm 39 relative to the other brace arm 39 or brace arms 39.

In contrast, Nakajima is directed to a bone adjuster for adjusting two opposing bone fragments. Bone adjuster 20 includes first and second lift plates 22, 24 connected via an adjusting shaft 26 that provides for the spacing of the first and second lift plates to be selectively adjusted. Each of the first and second lift plates 22, 24 are coupled via hinges 36, 46 to a mounting plate 28, 42 that is secured to a bone fragment via screws 32. In making the rejection, the Examiner identifies mounting plates 28 and 42 as being equivalent to the recited first and second attachment zones as well as hinge 36 as being “a connection between the first and second attachment zones which allows movement of the first and second attachment zones with respect to each other”. However, the Examiner then further identifies adjusting shaft 26 as being “a lock carried by the body for fixing the relationship between the first and second attachment zones”, an observation which Applicant disagrees. While adjusting shaft is capable of adjusting a relationship between first and second lift plates (i.e., the distance between the lift plates), the adjusting shaft does not by any means fix the relationship between the first and second attachment zones as clearly the adjusting shaft does not inhibit whatsoever hinges 36 and/or 46, and thus does not inhibit the movement (provided by hinges 36 and/or 46) between mounting plates 24 and 42.

Accordingly, Nakajima plainly fails to disclose or suggest “a connection between the first and second attachment zones which allows movement of the first and second attachment zones with respect to each other; and a lock carried by the body, for inhibiting the movement between the first and second attachment zones” as recited in claim 27.

As such, claim 27 should be allowed over Nakajima. Claims 28-32 depend from claim 27 and as such should likewise be allowed over Nakajima for at least the same reasons as claim 27.

Similar to claim 27, claim 46 recites “a lock carried by the body, for fixing the relationship between the first and second contact zones” and as such should also be allowed over Nakajima. Claims 47-49 depend from claim 46 and as such should likewise be allowed over Nakajima for at least the same reasons as claim 46.

Withdrawal of the rejection of Claims 27-32 and 46-49 under 35 U.S.C. § 102(b) is respectfully requested.

#### **New Claims 50-61**

New independent claim 50 is believed to be patentable over the cited art for similar reasoning as claims 27 and 46. Furthermore, claims 51-61 which depend from claim 50, recite additional elements which are not disclosed by the cited art.

Accordingly new claims 50-61 should be allowed.

#### **Summary and Conclusion**

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to this effect is earnestly solicited.

Respectfully submitted,  
/Stephen A. Bucchianeri/

By: Stephen A. Bucchianeri  
Registration No. 54,928  
For: Charles E. Kosinski  
Registration No. 39,254

#### **Mail all correspondence to:**

Charles Kosinski, Esq.  
Philips Intellectual Property & Standards  
PO Box 3001  
Briarcliff Manor, NY 10510-8001, USA  
Phone: (724) 387-3746  
e-mail: charles.kosinski@philips.com